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KRISTIN HOWARTH

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KRISTIN HOWARTH,

Plaintiff,

vs.

EDUCAP, INC., HOLLINS LAW,  
A PROFESSIONAL  
CORPORATION, ROBERT A.  
HARTLEY, and DOES 1 through  
10, inclusive,

Defendants.

CASE NO.:

**COMPLAINT FOR:**

**(1) VIOLATIONS OF THE FAIR  
DEBT COLLECTION  
PRACTICES ACT**

**(2) VIOLATIONS OF THE  
ROSENTHAL FAIR DEBT  
COLLECTION PRACTICES ACT**

Plaintiff Kristin Howarth, formerly known as Kristen Wansten, hereby alleges against defendants Educap, Inc. Hollins Law, A Professional Corporation, Robert A. Hartley, and Does 1 through 10, the following:

**OPERATIVE FACTS**

1. Defendant Educap, Inc. alleges that plaintiff incurred a student loan debt with HSBC Bank USA, N.A., while in the State of Michigan. Educap alleges it acquired the allegedly defaulted debt. Educap then hired a law firm, defendant Hollins Law, as its agent, to collect on that alleged debt.

2. Educap sued plaintiff on this alleged debt on November 5, 2013, by filing a lawsuit in California state court, venued in Contra Costa county, and entitled Educap, Inc. v. Wansten, Contra Costa County Superior Court Case No. L13-05938. In November, 2013, plaintiff Kristin Howarth was a resident of Los Angeles county, not Contra Costa county. The venue for the case was improper and violated the Fair Debt Collection Practices Act.

3. Defendant Robert A. Hartley, a lawyer at defendant Hollins Law, selected the improper venue, and signed the complaint in Educap, Inc. v. Wansten. He signed and filed a false affidavit of venue, under oath, which stated “This action is filed in in this district because the Defendant Kristen Wansten is an individual who resides at 10944 San Pablo Avenue, Apt. 6, El Cerrito, CA 94530.”

4. Plaintiff hired an attorney to defend against Educap’s lawsuit. The attorney called Hollins Law and advised it that he represented plaintiff. Hollins Law continued to contact plaintiff directly, after learning that she was represented by counsel.

**JURISDICTION AND VENUE**

5. The court has original jurisdiction over this matter pursuant to 15 U.S.C. § 1692k(d). The court has supplemental jurisdiction over plaintiff’s state law claims pursuant to 28 U.S.C. § 1367(a).

6. Venue is proper in the Northern District of California because a substantial part of the events or omissions giving rise to the claim occurred in this district. In addition, defendants Hollins Law and Educap, Inc. have sufficient contacts in this district to subject them to personal jurisdiction here.

### **PARTIES**

7. Plaintiff Kristin Howarth is a California citizen, and a resident of the county of Los Angeles, and is over 18 years of age.

8. Defendant Hollins Law, A Professional Corporation is a California corporation, and a citizen of California.

9. Defendant Robert A. Hartley is a resident of Los Angeles County, over 18 years of age, and a citizen of California.

10. Defendants Does 1 through 10 are persons or entities whose true names and capacities are presently unknown to plaintiff, and who therefore are sued by such fictitious names. Each of the fictitiously named defendants perpetrated some or all of the wrongful acts alleged herein, is responsible in some manner for the matters alleged herein, and is jointly and severally liable to plaintiff. Plaintiff will seek leave of court to amend this complaint to state the true names and capacities of such fictitiously named defendants when ascertained.

11. Each of the defendants were the agents and/or employees of each other and were acting in the course and scope of their agency, employment and authority and with the permission and consent of their co-defendants in committing the acts alleged. The defendants are jointly and severally liable to plaintiff.

### **FIRST CAUSE OF ACTION**

#### **(By Plaintiff Against All Defendants For Violations of the Federal Fair Debt Collections Practices Act, 15 U.S.C. § 1692 et seq)**

12. Plaintiff realleges and incorporates herein by reference the allegations of each and every paragraph above.



1 credit to consumers.” Cal. Civ. Code § 1788.1(a)(2). It thus enacted the Rosenthal  
2 Fair Debt Collection Practices Act, Cal. Civ. Code §§ 1788, et seq. (the “Rosenthal  
3 Act”), to ensure the integrity of our banking and credit industry. Id. § 1788.1(b).

4 22. Plaintiff is a “debtor” within the meaning of Civil Code § 1788.2(h) in  
5 that he is a natural person from whom defendants sought to collect a “consumer  
6 debt” alleged to be due and owing.

7 23. The defendants sued on this cause of action at all times relevant herein  
8 were “debt collectors” within the meaning of Civil Code § 1788.2(c), in that they  
9 regularly and in the ordinary course of business, on behalf of themselves or others,  
10 engage in acts and practices in connection with the collection of “consumer debt”.

11 24. The purported debt defendants attempted to collect from plaintiff is a  
12 “consumer debt” within the meaning of Civil Code § 1788.2(f). Defendants engaged  
13 in acts or practices in connection with the collection of money or property which was  
14 alleged to be due and owing, by reason of a consumer credit transaction entered into  
15 with plaintiff.

16 25. Defendants violated Civil Code § 1788.15(b) and Civil Code § 1788.17  
17 by suing plaintiff in a county other than the county in which she incurred the  
18 consumer debt or the county in which she resided at the time the proceedings were  
19 instituted.

20 26. Defendants violated Civil Code § 1788.17, incorporating by reference  
21 15 U.S.C. § 1692e, by filing a false affidavit of venue with the Contra Costa County  
22 Superior Court.

23 27. Defendants violated Civil Code § 1788.17, incorporating by reference  
24 15 U.S.C. § 1692c(a)(2), by communicating with plaintiff after learning that she was  
25 represented by an attorney.

26 28. As a proximate result of defendants’ violations of the Rosenthal Act,  
27 plaintiff has been damaged in amounts which are subject to proof.  
28

1       29. Plaintiff is entitled to recover her actual damages pursuant to Civil Code  
2 § 1788.17, incorporating by reference 15 U.S.C. § 1692k(a)(1), or in the alternative,  
3 Civil Code § 1788.30(a).

4       30. Defendants' violations of the Rosenthal Act were willful and knowing.  
5 Plaintiff is entitled to recover statutory damages of \$1,000 per defendant pursuant to  
6 Civil Code § 1788.17, incorporating by reference 15 U.S.C. § 1692k(a)(2)(A), and  
7 Civil Code § 1788.30(b).

8       31. Plaintiff is entitled to recover her attorneys fees and costs pursuant to  
9 Civil Code § 1788.17, incorporating by reference 15 U.S.C. § 1692k(a)(3), or in the  
10 alternative, Civil Code § 1788.30(c).

11       WHEREFORE, plaintiff prays for relief as set forth below.

12                               **PRAYER FOR RELIEF**

13       WHEREFORE, plaintiff prays for the following relief:


- 14       1. For actual damages;  
15       2. For statutory damages;  
16       3. For pre-judgment interest to the extent permitted by law;  
17       4. For an award of attorneys' fees, costs and expenses incurred in the  
18 investigation, filing and prosecution of this action; and  
19       5. For such other and further relief as the Court may deem just and proper.  
20

21                               **DEMAND FOR JURY TRIAL**

22       Plaintiff hereby demands a trial by jury under the United States Constitution.  
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24       Dated: August 27, 2014

TRUEBLOOD LAW FIRM

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26                               \_\_\_\_\_  
Alexander. B. Trueblood

27                               Attorneys for Plaintiff  
28                               KRISTIN HOWARTH